

**ANNUAL REPORT  
OF THE  
CHILD CUSTODY AND SUPPORT  
ADVISORY COMMITTEE**



**Indiana Legislative Services Agency  
200 W. Washington Street, Suite 301  
Indianapolis, Indiana 46204**

**October, 2010**

# **INDIANA LEGISLATIVE COUNCIL**

## **2010**

**Senator David Long**

**Vice-Chairperson**

**Fort Wayne**

**Speaker B. Patrick Bauer**

**Chairperson**

**South Bend**

**Senator Vi Simpson**

**Bloomington**

**Representative Brian Bosma**

**Indianapolis**

**Senator Brandt Hershman**

**Monticello**

**Representative Earl Harris**

**East Chicago**

**Senator Connie Lawson**

**Danville**

**Representative Dale Grubb**

**Covington**

**Senator Brent Steele**

**Bedford**

**Representative Scott Pelath**

**Michigan City**

**Senator James Merritt**

**Indianapolis**

**Representative Russell Stilwell**

**Boonville**

**Senator Connie Sipes**

**New Albany**

**Representative William Friend**

**Macy**

**Senator Timothy Lanane**

**Anderson**

**Representative Kathy**

**Richardson**

**Noblesville**

**John M. Ross**  
**Executive Director**  
**Legislative Services Agency**

# **INDIANA CHILD CUSTODY AND SUPPORT ADVISORY COMMITTEE**

## **Membership Roster**

### **Senators**

**Brent Steele  
Bedford**

**James Arnold  
LaPorte**

**Brent Waltz  
Greenwood**

**Greg Taylor  
Indianapolis**

### **Representatives**

**Vanessa Summers, Chairperson  
Indianapolis**

**John Day  
Indianapolis**

**David Frizzell  
Indianapolis**

**David Yarde  
Garrett**

### **Laymembers**

**Bruce Pennamped  
Indianapolis**

**Judge Marianne L. Vorhees  
Muncie**

**Greg DeVries  
Indianapolis**

**Robert Bishop  
Warsaw**

### **Staff**

**Eliza Houston Stephenson  
Attorney for the Committee**

**Bill Brumbach  
Fiscal Analyst for the Committee**

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.

## **I. STATUTORY DIRECTIVE**

The Indiana General Assembly enacted legislation (IC 33-24-11-6) directing the Committee to review custody and educational expenses and other items related to the welfare of a child of a family that is no longer intact. Specifically, the Committee is to consider the following in studying the child support guidelines:

- (1) The mathematics pertaining to the child support guideline chart.
- (2) The actual costs of supporting a child.
- (3) Whether it is appropriate to calculate child support guideline amounts based primarily upon the ability of the parent to pay rather than the financial needs of the child.
- (4) Equality of child support awards for the children of the parties, regardless of birth order.
- (5) A mechanism that may be employed to modify the amount of support to be paid due to a change in financial circumstances or a change in the number of children being supported by either parent.
- (6) The age of a child to the extent that the child may require different amounts of support at different ages.
- (7) Clarification regarding under what circumstances, if any, support may be abated.
- (8) A mechanism that may be employed to ensure that the guidelines are applied flexibly.
- (9) The application of the guidelines to a split custody situation.
- (10) Whether it is appropriate to base child support guidelines upon the premise that the child should enjoy the same standard of living that the child would have enjoyed if the family remained intact.

## **II. SUMMARY OF WORK PROGRAM**

The Committee met three times during the 2010 interim, on September 14, October 6, and October 20. All meetings were held at the State House in Indianapolis.

## **III. SUMMARY OF TESTIMONY**

For a more detailed account, minutes from the Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>

The first reference to a witness includes the name of the witness and the person or organization the witness represents. For brevity, any subsequent reference includes only the name of the witness. A witness list is included at the end of the report.

### Number of individuals who are in prison for failing to pay child support

Mr. Tim Brown, Director of Legislative Services for the Department of Correction, discussed the number of offenders who are currently incarcerated for failure to pay child support, the costs of incarceration for those offenders, and the rate of return of those offenders released from prison.

Ms. Cynthia Longest, Deputy Director of the Child Support Bureau, Department of Child Services (DCS), discussed the following: (1) The IV-D collections at the end of fiscal year 2009 were \$583 million. (2) IV-D performance measure historical data. (3) IV-D collection data. (4) The license suspension pilot project. (5) Administrative enforcement methods available through the IV-D program. (6) Income withholding and unemployment compensation collections. Ms. Longest also discussed how DCS has looked at what other states are doing to increase child support collections and that DCS has made a huge effort to improve their interface with the federal government.

### Other Committee business

Mr. Stuart Showalter with Indiana Custodial Rights Advocates discussed: (1) a program in Virginia that is similar to the project in South Bend in which prosecutors are working with local workforce development staff; and (2) virtual visitation between a parent and child.

Mr. Robert Monday with the Children's Rights Council discussed how courts are not enforcing child support and parenting time equally and that parents should be ensured time with their children.

### Top ten states in each of the child support performance factors

Ms. Longest discussed which states were the top ten in each of the child support performance factors and compared incentive money that Indiana has received with that of Washington and Wisconsin.

### Putative father registry

Ms. Erin Kellman, Indiana State Registrar, Indiana State Department of Health, discussed the following: (1) The definition of "putative father." (2) The thirty day putative father registry registration requirement. (3) That the State Registrar works to ensure that the information on the registration form is complete. (4) How the putative father registry is advertised. (5) The Ohio case in the national news regarding Ohio's putative father registry laws.

### Non-custodial parent outreach initiatives

Ms. Karla Mantia with the Indiana Prosecuting Attorneys Council discussed non-custodial parent initiatives. Ms. Kathy Dvorak, Child Support (Title IV-D) Program Administrator, St. Joseph County Prosecutor's Office, discussed St. Joseph County's programs for delinquent obligors. Ms.

Gina Jones, Child Support Administrator/Deputy Prosecutor, Lake County Prosecutor's Office, discussed the following: (1) The Support for Kids Improvement Program (SKIP). (2) How the child support division in Lake County is starting an information sharing system with Illinois.

Mr. William Welch, Deputy Prosecutor/Child Support Administrator, Monroe County Prosecutor's Office, discussed the following: (1) Non-custodial parent services (NCPS) in Monroe County. (2) The extra expenses in implementing NCPS. (3) The number of child support cases the Monroe County Prosecutor's Office has at a given time. Mr. Andrew Schweller, Deputy Prosecutor, Allen County Prosecutor's Office, discussed the following: (1) The prison population project. (2) Indiana case law regarding incarcerated non-custodial parents. (3) The number of people who are incarcerated each year in Allen County for failure to pay child support.

### Contesting Paternity

Mr. Schweller discussed federal and state requirements and process overview of voluntary paternity acknowledgment. Mr Schweller discussed the following: (1) Whether the state or a party may ask for and will be granted a genetic test. (2) Who pays for a genetic test. (3) When and how a paternity affidavit can be rescinded. (4) A mother of a child is required to cooperate with the state in establishing paternity if the mother is receiving assistance under Temporary Assistance for Needy Families. (5) Court cases on the definition of "mistake of material fact" under the paternity affidavit statute.

### Other Committee Business

Mr. Donald Beatty discussed the following: (1) His experience with the Wabash County prosecutor's office. (2) That there are different standards for custodial and non-custodial parents and that non-custodial parents are not treated the same as custodial parents, which is a violation of the Fourteenth Amendment of the United States Constitution.

Mr. Showalter discussed the following: (1) Virginia's Intensive Case Monitoring Program. (2) Statistics regarding participants in the program and child support collected from participants in the program.

### Consideration of Legislation

The Committee members discussed Preliminary Draft 3380, which would amend the putative father registration deadline as follows:

Provides that the putative father of a child, to be entitled to notice of the adoption of the child, must have registered with the state department of health before the later of the following time limits: (1) within 90 days after the child's birth; or (2) on or before the date of filing of (A) the petition for the child's adoption or (B) a petition for termination of the parent-child relationship between the child and the child's mother, whichever is filed earlier. (Under current law, the time limit

pertaining to the date of birth is within 30 days after the child's birth.)

Mr. Steven Kirsh, an adoption attorney, discussed the following: (1) Other states with putative father registries and the time period in which those states required men to register. (2) The history of the Indiana putative father registry. (3) Putative father registration requirements in Indiana. (4) Allowing a longer time period for a man to register is not in the best interests of the child, adoptive parents, or birth mother. (5) Men have at least ten months to protect their rights by registering: the nine months that the woman is pregnant and the thirty days after the birth of the child. (6) Options other than the putative father registry that had been considered.

Representative Summers indicated that instead of extending the time period in which men may protect their rights by registering with the putative father registry, she would like the putative father registry to be better advertised.

Ms. Deborah Agard, a representative of the Family and Juvenile Law Committee, Family Law Section, Indiana State Bar Association, discussed the process regarding a child in need of services and termination of parental rights and said that extending the time period for registration with the putative father registry may affect that process.

Ms. Priscilla Kamrath, a representative of Indiana Adoption Agencies United, discussed the following: (1) The adoption agency for which she works explains to birth mothers the importance of identifying fathers. (2) Adoptive parents may be hesitant in bonding with a child during the time period in which the child could be taken away.

No action was taken on Preliminary Draft 3380.

### **Other Business**

The Committee members received a handout from Mr. Donald Beatty concerning alternatives to incarceration and a summary of his testimony at the Committee meeting on October 6, 2010.

Mr. Chris Worden, a family law attorney, discussed a concern with the changes to the paternity affidavit statute that were enacted during the last legislative session.

## **IV. COMMITTEE FINDINGS AND RECOMMENDATIONS**

The Committee did not make any findings or recommendations.

## WITNESS LIST

Mr. Tim Brown, Department of Correction

Ms. Cynthia Longest, Department of Child Services

Mr. Stuart Showalter, Indiana Custodial Rights Advocates

Mr. Robert Monday, Children's Rights Council

Ms. Erin Kellam, Indiana State Department of Health

Ms. Karla Mantia, Indiana Prosecuting Attorneys Council

Ms. Gina Jones, Lake County Prosecutor's Office

Ms. Kathy Dvorak, St. Joseph County Prosecutor's Office

Mr. William Welch, Monroe County Prosecutor's Office

Andrew Schweller, Allen County Prosecutor's Office

Mr. Donald Beatty

Mr. Steven Kirsh

Ms. Deborah Agard, Indiana State Bar Association

Ms. Priscilla Kamrath, Indiana Adoption Agencies United

Mr. Chris Worden